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1 2	BEFORE THE FEDERAL ELECTION COMMISSION				
3	In the Matter of				
5	MUR 7192) DISMISSAL AND				
6	Brendan Boyle) CASE CLOSURE UNDER THE				
7	Citizens for Boyle and) ENFORCEMENT PRIORITY				
8	Lindsay F. Angerholzer as treasurer) SYSTEM				
9	Kevin Boyle)				
0	Friends of Kevin Boyle)				
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2	GENERAL COUNSEL'S REPORT				
13	Under the Enforcement Priority System, the Commission uses formal scoring criteria as a				
4	basis to allocate its resources and decide which matters to pursue. These criteria include, without				
5	limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking in	to			
6	account both the type of activity and the amount in violation; (2) the apparent impact the alleged				
17	violation may have had on the electoral process; (3) the complexity of the legal issues raised in the				
8	matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971,	as			
19	amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing				
20 -	relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial				
21	discretion to dismiss cases under certain circumstances. The Office of General Counsel has scored				
22	MUR 7192 as a low-rated matter and has determined that it should not be referred to the Alternative	е			
23	Dispute Resolution Office. ¹				
24	The Complaint alleges that Brendan Boyle, U.S. Representative from Pennsylvania's 13th				
25	Congressional District, and his authorized Committee, Citizens for Boyle and Lindsay F				

Angerholzer in her official capacity as treasurer (collectively "the Committee"), violated the Act by

soliciting funds on behalf of Kevin Boyle, Brendan Boyle's brother and a candidate for Pennsylvania

Complaint filed: Nov. 7, 2016. Response filed:

The EPS rating information is as follows: Mar. 3, 2017.

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- 1 State Representative, and his campaign committee, Friends of Kevin Boyle ("state committee").²
- 2 Specifically, the Complaint alleges that on October 30, 2016, Brendan Boyle sent an email from a
- 3 Committee email address asking that recipients "donate as much as you can" to Kevin Boyle's
- 4 campaign and directed contributors to the state committee's website through a link to
- 5 www.votekevinboyle.com, but did not include information regarding the Act's limitations and
- 6 prohibitions, or a statement that contributions are not tax deductible.³

Respondents acknowledge that Brendan Boyle sent the email requesting contributions on behalf state candidate Kevin Boyle.⁴ Further, Respondents admit that the email did not contain information regarding the Act's limitations and prohibitions. However, Respondents also assert that it is unlikely that the email prompted prohibited or excessive contributions, and provided sworn statements that Kevin Boyle received only \$1,170 in donations, all from individuals, between the date of the email and the general election.⁵

The Act and Commission regulations prohibit federal candidates, federal officeholders, agents acting on their behalf, and entities that are directly or indirectly established, financed, maintained,

² Compl. at 2 (Nov. 7, 2016). At the time of the Complaint, Brendan Boyle was running for reelection.

Compl. at 2-3; Compl. Attach. 1. Fundraising solicitations by or on behalf of a political organization, as defined by 26 U.S.C. § 527(e), shall contain an express statement that contributions or gifts to such organizations are not deductible as charitable contributions for Federal income tax purposes. 26 U.S.C. § 6113. Although the email in question did not contain this disclaimer, it is not a violation of the Act and therefore does not fall under the jurisdiction of the Commission.

⁴ Resp. at 1 (Mar. 3, 2017).

Id. See Resp. Attach. 2, Scott Heppard Affidavit (Mar. 1, 2017). In affidavits from Lindsay F. Angerholzer, treasurer for the Committee, and Scott Heppard, volunteer campaign manager for the state committee, Kevin Boyle received only five contributions totaling \$1,170 between the date of the email and the date of the general election. Although Respondents admit that it is not possible to tell whether these five contributions were made through the electronic link in the email, Heppard avers that a review of the contributor history indicates that none of the contributors made aggregate contributions that exceeded \$2,700. Further, Heppard asserts that the five contributors had made earlier contributions to Kevin Boyle's state campaign and, therefore, had provided occupation and employer information, and had previously affirmed that their contributions were made by the individual and not by a corporation or labor union.

1 controlled by, or acting on behalf of federal candidates or officeholders from soliciting,⁶ receiving,

2 directing, transferring, spending, or disbursing funds in connection with an election for non-federal

office, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the

4 Act."7

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§ 30125(e).8

Although the Respondents admit that Brendan Boyle sent an email soliciting funds for his brother that were not limited to funds permissible under the Act, they provided sworn statements that the state committee received only \$1,170 in donations between the date of the email and the election. Given the *de minimis* amount of the contributions in question, and the information provided by the Respondents suggesting that those contributions did not violate the Act's source prohibition and amount limitations, and in furtherance of the Commission's priorities, relative to other matters pending on the Enforcement docket, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion to dismiss the allegation that Brendan Boyle and Citizens for Boyle and Lindsay F. Angerholzer in her official capacity as treasurer violated 52 U.S.C.

RECOMMENDATIONS

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- 1. Dismiss the allegation that Brendan Boyle and Citizens for Boyle and Lindsay F. Angerholzer in her official capacity as treasurer violated 52 U.S.C. § 30125(e);
- 2. Approve the Factual and Legal Analysis;
- 3. Approve the appropriate letters; and

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Solicitations include communications that provide instructions on how or where to send contributions, or identify a Web address that redirects to a page dedicated to making a contribution. 11 C.F.R. § 300.2(m)(1)(ii).

⁷ 52 U.S.C. § 30125(e)(1)(B); 11 C.F.R. § 300.62.

⁸ Heckler v. Chaney, 470 U.S. 821 (1985).

1 2	4.	Close the file as to all Responde	ents.	
3 4		·	,	Lisa J. Stevenson Acting General Counsel
5 6 7				Kathleen M. Guith Associate General Counsel
8 9 10 11 12 7 13 14 15 16 17 18 19 20 21 22 23 24 25	7.19.17 Date		BY:	Stephen Gura Deputy Associate General Counsel Jeff S. Jordan Assistant General Counsel Wanda Brown Wanda D. Brown Attorney
26 27	Attachmen	t: Factual and Legal Analysis		

FEDERAL ELECTION COMMISSION

2	FACTUAL AND LEGAL ANALYSIS	
3 4 5 6 7 8 9	RESPONDENTS: Brendan Boyle MUR 7192 Citizens for Boyle and Lindsay F. Angerholzer as treasurer Kevin Boyle Friends of Kevin Boyle I. INTRODUCTION	
10	This matter was generated by a Complaint alleging that Brendan Boyle, U.S.	
11	Representative from Pennsylvania's 13th Congressional District, and his authorized Committee,	
12	Citizens for Boyle and Lindsay F. Angerholzer in her official capacity as treasurer (the	
13	"Committee"), violated the Act by soliciting funds on behalf of Kevin Boyle, Brendan Boyle's	
14	brother, a Pennsylvania state candidate and his committee, Friends of Kevin Boyle ("state comm	ittee").
15	II. FACTUAL AND LEGAL ANALYSIS	
16	The Complaint alleges that on October 30, 2016, Brendan Boyle sent an email from a	
17	Committee email address asking that recipients "donate as much as you can" to Kevin Boyle's	
18	campaign and directed contributors to the state committee's website through a link to	
19	www.votekevinboyle.com, but did not include information regarding the Act's limitations and	
20	prohibitions, or a statement that contributions are not tax deductible. ²	
21	Respondents acknowledge that Brendan Boyle sent the email requesting contributions on	
22	behalf of state candidate Kevin Boyle. ³ Further, Respondents admit that the email did not	

¹ Compl. At 2 (Nov. 7, 2016).

Compl. at 2-3; Compl. Attach. 1. Fundraising solicitations by or on behalf of a political organization, as defined by 26 U.S.C. § 527(e), shall contain an express statement that contributions or gifts to such organizations are not deductible as charitable contributions for Federal income tax purposes. 26 U.S.C. § 6113. Although the email in question did not contain this disclaimer, it is not a violation of the Act and therefore does not fall under the jurisdiction of the Commission.

³ Resp. at 1 (Mar. 3, 2017).

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- 1 contain information regarding the Act's limitations and prohibitions. However, Respondents
- 2 also assert that it is unlikely that the email prompted prohibited or excessive contributions, and
- 3 provided sworn statements that Kevin Boyle received only \$1,170 in donations, all from
- 4 individuals, between the date of the email and the general election.⁴

The Act and Commission regulations prohibit federal candidates, federal officeholders, agents acting on their behalf, and entities that are directly or indirectly established, financed, maintained, controlled by, or acting on behalf of federal candidates or officeholders from soliciting,⁵ receiving, directing, transferring, spending, or disbursing funds in connection with an election for non-federal office, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act."⁶

Although the Respondents admit that Brendan Boyle sent an email soliciting funds for his brother that were not limited to funds permissible under the Act, they provided sworn statements that the state committee received only \$1,170 in donations between the date of the email and the election. Given the *de minimis* amount of the contributions in question, and the information provided by the Respondents suggesting that those contributions did not violate the Act's source prohibition and amount limitations, and in furtherance of the Commission's priorities, relative to

Id. See Resp. Attach. 2, Scott Heppard Affidavit (Mar. 1, 2017). In affidavits from Lindsay F. Angerholzer, treasurer for the Committee, and Scott Heppard, volunteer campaign manager for the state committee, Kevin Boyle received only five contributions totaling \$1,170 between the date of the email and the date of the general election. Although Respondents admit that it is not possible to tell whether these five contributions were made through the electronic link in the email, Heppard avers that a review of the contributor history indicates that none of the contributors made aggregate contributions that exceeded \$2,700. Further, Heppard asserts that the five contributors had made earlier contributions to Kevin Boyle's state campaign and, therefore, had provided occupation and employer information, and had previously affirmed that their contributions were made by the individual and not by a corporation or labor union.

Solicitations include communications that provide instructions on how or where to send contributions, or identify a Web address that redirects to a page dedicated to making a contribution. 11 C.F.R. § 300.2(m)(1)(ii).

^{6 52} U.S.C. § 30125(e)(1)(B); 11 C.F.R. § 300.62.

MUR 7192 (Citizens for Boyle, *et al.*) Factual and Legal Analysis Page 3 of 3

- 1 other matters pending on the Enforcement docket, the Commission exercised its prosecutorial
- discretion to dismiss the allegation that Brendan Boyle and Citizens for Boyle and Lindsay F.
- 3 Angerholzer in her official capacity as treasurer violated 52 U.S.C. § 30125(e) and closed the file
- 4 as to all Respondents.⁷

⁷ Heckler v. Chaney, 470 U.S. 821 (1985).